

standards applicable for those programs will apply and be assessed at the appropriate time as required by that program rule or handbook and not at the time of the demolition or disposition application. The PHA must certify to HUD at the time of application for demolition or disposition, that once the site is identified, the PHA will comply with the site and neighborhood standards applicable for those programs.

(2) If units under the Public Housing Development Program or the Section 8 project-based assistance program have been requested as replacement housing in the PHA's application and the PHA plans to build back on the same site, the PHA shall comply with the site and neighborhood standards applicable for those programs when the demolition or disposition application is submitted to HUD. A complete site and neighborhood standards review shall be done by HUD subsequent to the submission of the demolition or disposition application but prior to approval.

(3)(i) If the replacement housing units are to be provided under a State or local program, and the site is known (including building back on the same site), the PHA is required to comply with site and neighborhood standards comparable to part 882 of this title when the demolition or disposition application is submitted to HUD. A complete site and neighborhood standards review shall be done by HUD subsequent to the submission of the demolition or disposition application but prior to approval.

(ii) However, if the site is not known, the PHA shall include in the application for demolition or disposition a certification that it will comply with site and neighborhood standards comparable to part 882 of this title once the site is known.

(iii) In the case of replacement housing funded by State or local government funds, the PHAs must demonstrate in the application that it has a commitment for funding the replacement housing.

(4)(i) If the replacement housing units are to be provided out of the proceeds of the disposition of public housing property, and the site is known (including building back on the same

site), the PHA is required to comply with site and neighborhood standards comparable to part 941 of this chapter (or under part 882 of this title in the case of use of Section 8 assistance) when the demolition or disposition application is submitted to HUD. A complete site and neighborhood standards review shall be done by HUD subsequent to the submission of the demolition or disposition application but prior to approval.

(ii) However, if the site is not known, the PHA shall include in the application for demolition or disposition a certification that it will comply with site and neighborhood standards comparable to part 941 of this chapter or under part 882 of this title once the site is known.

(i) *Assurances regarding accessibility.* The plan must contain assurances that any replacement units acquired, newly constructed or rehabilitated will meet the applicable accessibility requirements set forth in §8.25 of this title.

(j) *Exception for replacement housing in cases of demolition.* In any 5-year period, a public housing agency may *demolish* not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each public housing unit to be *demolished*, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents. If the PHA elects to use this exception, it shall meet all other requirements of this part except §970.11.

(Approved by the Office of Management and Budget under control number 2577-0075)

[60 FR 3719, Jan. 18, 1995]

#### **§970.12 Required and permitted actions prior to approval.**

A PHA may not take any action to demolish or dispose of a public housing project or a portion of a public housing project without obtaining HUD approval under this part. Until such time as HUD approval may be obtained, the PHA shall continue to meet its ACC obligations to maintain and operate the property as housing for low-income families. This does not, however, mean that HUD approval under this part is

required for planning activities, analysis, or consultations, such as project viability studies, comprehensive modernization planning or comprehensive occupancy planning.

[53 FR 30987, Aug. 17, 1988]

**§ 970.13 Resident organization opportunity to purchase.**

(a) *Applicability.* (1) This section applies to applications for demolition or disposition of a development which involve dwelling units, nondwelling spaces (e.g. administration and community buildings, maintenance facilities), and excess land.

(2) The requirements of this section do not apply to the following cases which it has been determined do not present appropriate opportunities for resident purchase:

(i) The PHA has determined that the property proposed for demolition is an imminent threat to the health and safety of residents;

(ii) The local government has condemned the property proposed for demolition;

(iii) A local government agency has determined and notified the PHA that units must be demolished to allow access to fire and emergency equipment;

(iv) The PHA has determined that the demolition of selected portions of the development in order to reduce density is essential to ensure the long term viability of the development or the PHA (but in no case should this be used cumulatively to avoid Section 412 requirements);

(v) A public body has requested to acquire vacant land that is less than 2 acres in order to build or expand its services (e.g., a local government wishes to use the land to build or establish a police substation); or

(vi) PHA seeks disposition outside the public housing program to privately finance or otherwise develop a facility to benefit low-income families (e.g., day care center, administrative building, other types of low-income housing).

(3) In the situations listed in paragraph (a) of this section, the PHA may proceed to submit its request to demolish or dispose of the property, or the portion of the property, to HUD, in accordance with Section 18 of the United

States Housing Act of 1937 and 24 CFR part 970 without affording an opportunity for purchase by a resident organization. However, resident consultation would be required in accordance with § 970.4(a). The PHA must submit written documentation, on official stationery, with date and signatures to justify paragraphs (a)(2)(i), (ii), (iii), (iv), and (v) of this section. Examples of such documentation include:

(i) A certification from a local agency, such as the fire or health department, that a condition exists in the development that is an imminent threat to residents; or

(ii) A copy of the condemnation order from the local health department. If, however, at some future date, the PHA proposes to sell the remaining property described in paragraphs (a)(2)(i) through (iii) of this section, the PHA will be required to comply with this section.

(b) *Opportunity for residents to organize.* Where the affected development does not have an existing resident council, resident management corporation or resident cooperative at the time of the PHA proposal to demolish or dispose of the development or a portion of the development, the PHA shall make a reasonable effort to inform residents of the development of the opportunity to organize and purchase the property proposed for demolition or disposition. Examples of "reasonable effort" at a minimum include one of the following activities: convening a meeting, sending letters to all residents, publishing an announcement in the resident newsletter, where available, or hiring a consultant to provide technical assistance to the residents. The Department will not approve any application that cannot demonstrate that the PHA has allowed at least 45 days for the residents to organize a resident organization. The PHA should initiate its efforts to inform the residents of their right to organize as an integral part of the resident consultation requirement under § 970.4(a).

(c) *Established Organizations.* Where there are duly formed resident councils, resident management corporation, or resident cooperative at the affected development, the PHA shall follow the procedures beginning in paragraph (d)